

THE OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The Acting State Superintendent of Education, pursuant to the authority set forth in Sections 3(b)(11) and 7c(c)(2)(A) of State Education Office Establishment Act of 2000, effective September 18, 2007 (D.C. Law 17-20; D.C. Official Code §38-2602(b)(11), and §38-2609(c)(2)(A) (2008 Supp.)), and Article II, Sections 1 and 4 of an Act to provide compulsory education and school attendance, and for the purposes approved February 4, 1925 (43 Stat. 806; D.C. Official Code §§38-202 through 206 (2001)); hereby gives notice of her intent to amend Title 5, Chapter 21, *District of Columbia Municipal Regulations* (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The proposed rule revises school attendance and reporting requirements for students enrolled in educational institutions within the District of Columbia. Children receiving home schooling in conformance with District of Columbia laws and regulations will not be subject to the reporting requirements set forth in this chapter.

The proposed rule creates a new chapter A21 in Title 5 of the DCMR entitled "Compulsory Education and School Attendance". Upon final adoption of this proposal, portions of Title 5, Chapter 21 and Chapter 3 of the DCMR will be repealed as noted herein.

A proposed rule to address truancy, published at 55 *D.C. Register* 11917, November 14, 2008, will become part of this new Chapter A21 as Section 2103 upon final promulgation.

This notice includes a conforming revision to the term "unexcused absence" found in DCMR Title 5, Section 2099 of Chapter 20, to align with proposed new Chapter A21.

A new Chapter A21 of Title 5 of the DCMR is added to read as follows:

**CHAPTER A21 COMPULSORY EDUCATION AND
SCHOOL ATTENDANCE**

A2100 GENERAL PROVISIONS

A2100.1 The compulsory attendance requirements of the District of Columbia shall be governed in accordance to this chapter. Each school-age child who is a resident of the District of Columbia shall be expected to attend a public, independent, private, or parochial school, or receive private instruction.

A2100.2 A school-age child and his or her parents or guardian shall be exempt from this chapter in the event the child:

- (a) Has earned a high school diploma or its equivalent; or

- (b) Participates in a home schooling program in compliance with all District of Columbia laws and regulations.

A2100.3 A school year for attendance purposes shall include a minimum of one hundred eighty (180) regular instructional days. Student attendance days shall be based upon the actual number of days the student is in attendance in the school during the entire year.

- (a) Instructional days shall be at least six (6) hours in length for students, including time allotted for lunch periods, recess, and class breaks; provided the six-hour minimum instructional day requirement shall not be applicable to an evening school program, prekindergarten program, or a kindergarten program.

A2100.4 Attendance days shall include in-school suspensions, school sponsored field trips, participation in an off-site school-sponsored or approved activity during a regularly scheduled school day, and the number of days a student receives instructional services while expelled or while serving an out-of-school suspension.

A2101 ATTENDANCE RECORDS

A2101. 1 Each educational institution shall maintain an accurate daily record of attendance and absences, consistent with data and reporting requirements specified by the Office of the State Superintendent of Education for each school age-child. The attendance and absence record for each student shall include:

- (a) Date(s) of enrollment;
- (b) Current grade level assignment and date(s) of promotion to each grade level;
- (c) Daily attendance;
- (d) Daily absence or late arrival time, with an explanation from parents or guardians;
- (e) Date and brief description of communications with parents or guardians with regard to school attendance and absences, including the record of or a cross reference to the record documenting:
 - (1) Contact with parents, guardians, or other primary caregivers; and
 - (2) Interventions, services and referrals related to absences pursuant to this chapter; and

- (f) Date of withdrawal from or transfer to another school including the name and location of the school to which a student transfers; and follow up notation(s) to confirm the child's new placement.

A2101.2 Each educational institution shall maintain accurate attendance and absence records as required in this chapter and is encouraged to maintain these records in an electronic format.

A2102 ABSENCES

A2102.1 Any absence, including an absence from any portion of the day, without a valid excuse shall be presumed to be an unexcused absence.

A2102.2 As required by this chapter, an educational institution shall define categories of valid excuses for an absence, including the following:

- (a) Illness or bona fide medical cause experienced by the student;
- (b) Exclusion, by direction of the authorities of the District of Columbia, due to quarantine, contagious disease, infection, infestation, or other condition requiring separation from other students for medical or health reasons;
- (c) Death in the student's family;
- (d) Necessity for a student to attend judiciary or administrative proceedings as a party to the action or under subpoena;
- (e) Observance of a religious holiday;
- (f) Lawful suspension or exclusion from school by school authorities;
- (g) Temporary closing of facilities or suspension of classes due to severe weather, official activities, holidays, malfunctioning equipment, unsafe or unsanitary conditions, or other condition(s) or emergency requiring a school closing or suspension of classes;
- (h) Employment or other volunteer work approved by the school, provided that the student is 17 years of age. Any excused absences under this subsection shall not adversely impact the student's academic performance or timely graduation;
- (i) Failure of the District of Columbia to provide transportation in cases where the District of Columbia has a legal responsibility for

the transportation of the student;

- (j) Medical or dental appointments for the student; and
- (k) Emergencies or other set of circumstances as approved in writing and in conformance with published policies distributed to parents and guardians; implemented by an LEA, independent, private or parochial school.

A2102.3 Educational institutions shall publish and make available to parents and students the list of valid excused absences.

A2102.4 Educational institutions shall require a written statement from the student's parent or guardian verifying the reason for an absence provided in advance if practicable or upon the student's return to school.

A2103 TRUANCY PROCEDURE

[Proposed Rule published at 55 *D.C. Register* 11917 (November 14, 2008)]

A2104 REPORTING REQUIREMENTS

A2104.1 An educational institution shall submit to the Office of the State Superintendent of Education, upon request, information relating to attendance and compulsory education in conformance with this chapter.

A2104.2 Each educational institution subject to this chapter shall provide to the State Superintendent of Education, upon request, information with regard to a report of enrollments and withdrawals in conformance with D.C. Official Code § 38-205.

A2104.3 The reports required under this chapter shall, to the extent practicable, conform to the format requested by the Office of the State Superintendent of Education and include: the name, address, sex, and date of birth and student identification number as appropriate, of each minor residing permanently or temporarily in the District of Columbia who enrolls in, withdraws from, or transfers from an educational institution.

A2104.4 An educational institution shall notify the Office of the State Superintendent immediately upon information, reason, or belief that a school-age child who has been withdrawn from a school has not been re-enrolled in a school following withdrawal from school or is not receiving private instruction.

A2199 DEFINITIONS

A2199.1 All definitions set forth in Title 5, Section 2099 are incorporated herein by reference and shall apply to the terms used in this chapter unless modified by definitions listed in this chapter. For purposes of this Chapter:

Educational institution means a school in the District of Columbia Public Schools system, a public charter school, or an independent, private or parochial school or a private instructor.

Local Education Agency or **LEA** means the District of Columbia Public Schools (DCPS) or a District of Columbia public charter school.

Minor means a child who has not yet reached 18 years of age.

School-age child means a child who is five (5) years of age on or before September 30 of the current school year until the child reaches the age of eighteen (18) years.

Truant means a school-age child who is absent without a valid excuse as defined in (cite truancy chapter) for a school day or portion of it.

Unexcused absence means an absence of a school age child from any portion of the day that results in less than the six-hour required minimum instructional time without a valid excuse as defined by the LEA attended by the student.

Title 5 DCMR Chapter 20 Section 2099 is amended to read as follows:

Unexcused absence means an absence of a school age child from any portion of the day that results in less than the six-hour required minimum instructional time without a valid excuse as defined by the LEA attended by the student.

Title 5 DCMR Chapter 21 will be amended to delete the following:

§ 2100.1
§ 2100.5
§ 2100.7
§ 2100.8
§ 21009
§ 2100.10
§ 2101

Title 5, DCMR Chapter 3 will be amended to delete the following:

§ 305.7
§ 305.8

Persons wishing to comment on these proposed rules should submit their comments in writing to Kerri L. Briggs, PhD, the Office of the State Superintendent of Education, 441 4th Street NW, suite 350 North, Washington, D.C., 20001 or to osse.publiccomment@dc.gov, Attn: Jessica Morffi. All comments must be received by the Office of the State Superintendent of Education not later than thirty (30) days after publication of this notice in the *DC Register*. Copies of the proposed rules may be obtained on the State Superintendent of Education's website at osse.dc.gov or by writing to the above address and contact person; or calling the Office of the State Superintendent of Education at (202) 727-6436.